

APPEAL NO. 032837
FILED DECEMBER 11, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 22, 2003. In (Docket No. 1), the hearing officer determined that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the 9th quarter. In (Docket No. 2), the hearing officer determined that the claimant was not entitled to SIBs for the 10th quarter. The claimant appeals on legal and sufficiency of the evidence grounds. The respondent (carrier) urges affirmance.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The SIBs criterion in issue is whether the claimant made a good faith effort to obtain employment commensurate with her ability to work during the qualifying periods for the 9th and 10th quarters. The claimant asserted that she had no ability to work due to her compensable injury. The hearing officer found that the claimant did not meet the requirements of Rule 130.102(d)(4), that the claimant failed to submit a medical narrative showing how her compensable injury caused an inability to work during the relevant qualifying periods, that the claimant's deteriorating cerebral palsy condition is the direct cause of her unemployment during the relevant qualifying periods, and that an "other record" showed that the claimant was able to return to work during the relevant qualifying periods. Whether a claimant satisfied the good faith requirement for SIBs entitlement is a factual question for the hearing officer to resolve. Texas Workers' Compensation Commission Appeal No. 94150, decided March 22, 1994. The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing (Section 410.165(a)) and as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TRINITY UNIVERSAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**DONALD GENE SOUTHWELL
10000 NORTH CENTRAL EXPRESSWAY
DALLAS, TEXAS 75265.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge